THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.17700 of 2006

DATE: 25.08.2006

Between:

N. Venkat Reddy

... PETITIONER

AND

APSRTC, Musheerabad, Hydrabad
Rep., by its Managing Director,
& another.

... RESPONDENTS

THE HOBN'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 17700 of 2006

Oral order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner joined the service of the respondents-APSRTC as Conductor on 03.11.1970. While working as such, he was removed from service by orders dated 09.08.1974. Assailing the said order, the petitioner raised an industrial dispute in I.D. No. 3 of 1980, and the Labour Court, vide award dated 14.09.1981, allowed the I.D., set aside the order of removal and directed the respondents to reinstate him with full back wages and continuity of service. Pursuant to the said award, the petitioner was reinstated into service on 27.05.1982, and on attaining the age of superannuation, he retired from service on 30.09.2005. It is the case of the petitioner that at the time of his retirement, the respondents did not pay him gratuity for the period from 09.08.1974 to 26.05.1982 i.e., from the date of passing of order of removal till the date of his reinstatement into service by virtue of the award. It is the case of the petitioner that he made representation dated 08.04.2006, requesting the respondents to pay gratuity for the above-said period in vain. Hence, he filed the present writ petition.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondents-APSRTC that the subject-matter of this writ petition is squarely covered by a judgment of a learned single Judge of this court in **M.Rama Rao v. Asst. Traffic Manager, APSRTC**[1], wherein it was held that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result

of the order of removal.

Inasmuch as, the Labour Court, vide its award dated 14.09.1981 passed in I.D. No. 36 of 1980, while setting aside the order of removal dated 09.08.1974 passed against the petitioner, directed the respondents to reinstate the petitioner with full back wages and continuity of service, the petitioner is entitled to be paid gratuity for the period he remained out of employment from 09.08.1974 to 26.05.1982, i.e. from the date of removal order till the date of his reinstatement into service, and the action of the respondents in denying gratuity to the petitioner for the aforesaid period, is illegal and arbitrary.

Since the facts of this case, are squarely covered by the judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**, following the said judgment, and for the reasons mentioned above, this writ petition has to be allowed, and it is accordingly allowed in terms thereof. The respondents shall compute the gratuity payable to the petitioner taking into account the out of employment period i.e. from 09.08.1974, on which day order of removal was passed to 26.05.1982, on which day, he was reinstated into service by virtue of the award of the Labour Court, and after computing, pay the balance gratuity to the petitioner within a period. No costs.

_____

N.V. RAMANA, J.

Dated: 25.08.2006.
ES/NSR

---

[1] 1998 (3) ALD 76